

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Application of: Klaus OBENDIEK, et al.
Serial No.: 10/663,333
Filed: September 16, 2003
For: **TOP FOR A CONVERTIBLE VEHICLE**
Examiner: Jason S. Morrow
Art Unit: 3612

Mail Stop: PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 6, 2006

**PETITION UNDER 37 C.F.R. § 1.181
TO WITHDRAW HOLDING OF ABANDONMENT**

S I R:

On February 15, 2006, the law firm of the undersigned attorney received a Notice of Abandonment dated February 13, 2006 from the U.S. Patent and Trademark Office with regard to the above-identified U.S. patent application. This Notice of Abandonment stated that the application was being abandoned due to Applicants' failure to timely respond to the Final Office Action dated June 15, 2005 from the USPTO.

Applicants hereby petition the Assistant Commissioner for Patents under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of this application on the grounds that the undersigned attorneys for Applicants did in fact respond to the June 15, 2005 Final Office Action.

Applicants responded to the June 15, 2005 Final Office Action by mailing to the USPTO on September 13, 2006 a Response to Final Office Action. At the same time, Applicants submitted a check in the amount of \$600.00 and a PTO 1083 Transmittal Form. A copy of the Response to Final Office Action (9 pages) and check (1 page) along with a copy of PTO 1083 Transmittal Form (1 page) that includes a signed Certificate of First Class Mail dated September 13, 2005 shows that the above-stated documents were in fact mailed to the USPTO on September 13, 2005, within the three-month period for response to the June 15, 2005 Final Office Action. Also enclosed is a copy of the stamped Return Receipt Postcard (1 page) showing that these documents were indeed received by the USPTO on September 15, 2005.

Accordingly, there was no failure to timely file a proper response to the Final Office Action dated June 15, 2005. Therefore, Applicants petition the Assistant Commissioner for Patents to withdraw the holding of abandonment.

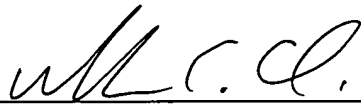
Before receiving the Notice of Abandonment dated February 13, 2006 from the USPTO on February 15, 2006, an attorney from the law firm of the undersigned attorney received a telephone call from Examiner Morrow on December 20, 2005 suggesting that the PTO never received a response to the Final Office Action dated June 15, 2005. The attorney informed Examiner Morrow that a Response to Final Office Action was filed on September 13, 2005. At the request of Examiner Morrow, written correspondence was sent to the PTO on December 21, 2005 regarding this matter. The written response included a PTO 1083 Transmittal Form dated December 21, 2005 (1 page), Correspondence Re: Previously filed Amendment and Response Office Action (1 page), a copy of PTO 1083 Transmittal Form dated September 13, 2005 (1 page), a copy of Response to Final Office Action dated September 13, 2005 (9 pages), a copy of Check in the amount of \$600.00 (1 page), and a copy of stamped Return Receipt Postcard dated September 13, 2005 stamped September 15, 2005 (1 page). The stamped return receipt postcard shows the PTO received the concurrently submitted documents on December 23, 2005. Copies of these documents are also enclosed.

This petition is being filed within two months of the February 13, 2006 mailing date of the Notice of Abandonment from the U.S. Patent and Trademark Office. Thus, in accordance with 37 C.F.R. § 1.181(f), this petition is considered timely filed.

No fee is believed required for this petition. However, if any fee is required at this time, the Assistant Commissioner is authorized to charge payment to Deposit Account No. 50-0552.

Respectfully Submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

William C. Gehris

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Encls.

List of Enclosures

- Copy of PTO 1083 Transmittal Form with Certificate of First Class Mail dated September 13, 2005 (1 pg)
- Copy of Response to Final Office Action dated September 13, 2005 (9 pgs)
- Copy of Check in the amount of \$600.00 (1 pg)
- Copy of stamped Return Receipt Postcard dated September 13, 2005 stamped September 15, 2005 (1 pg)
- Copy of PTO 1083 Transmittal Form with Certificate of First Class Mail dated December 21, 2005 (1 pg)
- Copy of Correspondence Re: Previously filed Amendment and Response to Final Office Action (1 pg)
- Copy of stamped Return Receipt Postcard dated December 21, 2005 stamped December 23, 2005 (1 pg)